

Patrick M. Lynch, Esq.  
State Bar Number 24065655  
BEASLEY, HIGHTOWER & HARRIS, P.C.  
1601 Elm Street, Suite 4350  
Dallas, TX 75201  
(214) 220-4700 (telephone)  
(214) 220-4753 (telefax)  
Email: [plynch@bhhlaw.com](mailto:plynch@bhhlaw.com)

Attorneys for Santander Consumer USA Inc. dba Chrysler Capital

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION**

IN RE:

Clayton Warren Graham and Vicki Lynn  
Graham,  
  
Debtors.

Case No. 13-70146-HDH-13

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Santander Consumer USA Inc. dba Chrysler  
Capital,  
  
Movant,

Hearing on Motion to Lift  
Automatic Stay:  
April 16, 2014 at  
10:30 a.m.

v.

Clayton Warren Graham and Vicki Lynn  
Graham,

Debtors-Respondents.

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

**NOTICE**

**PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS  
REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY  
BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT  
MAY BE ENTERED BY DEFAULT.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE  
UNITED STATES BANKRUPTCY COURT AT 1100 COMMERCE STREET, ROOM  
1254, DALLAS, TX 75242 BEFORE THE CLOSE OF BUSINESS ON APRIL 1, 2014,  
WHICH IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY**

**SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THIS CASE. ANY REPOSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED.**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW SANTANDER CONSUMER USA INC. DBA CHRYSLER CAPITAL, a creditor in the above bankruptcy, complaining of Debtors and files its Motion for Relief from the Automatic Stay of 11 U.S.C. §362 to permit it to take possession of and to foreclose its interest in certain property described hereinbelow, and in support thereof would show the Court as follows:

1. A voluntary Petition commencing the above Bankruptcy case under Chapter 13 of the Bankruptcy Code was filed by Clayton Warren Graham and Vicki Lynn Graham. This filing operated as a Stay against actions as specified in 11 U.S.C. §362.
2. Santander Consumer USA Inc. dba Chrysler Capital is the holder of a secured claim against Debtors. A Contract and Certificate of Title create and perfect an interest in favor of Santander Consumer USA Inc. dba Chrysler Capital on the property described in the Contract, namely: 2013 Dodge Avenger, VIN: 1C3CDZAB1DN690537 (the "Collateral").
3. The Chapter 13 Plan requires payments to Santander Consumer USA Inc. dba Chrysler Capital to be made directly by Debtors. A delinquency exists for the months of December 2013 through March 2014 totaling \$1,850.64. Debtors are in default under terms of the Contract and Santander Consumer USA Inc. dba Chrysler Capital is therefore entitled to immediate possession of the Collateral.
4. Santander Consumer USA Inc. dba Chrysler Capital has been unable to verify insurance coverage and believes that Debtors have no physical damage insurance on the Collateral as required by the Contract. Such lack of insurance coverage does not adequately

protect Santander Consumer USA Inc. dba Chrysler Capital's security interest and represents "cause" to lift the stay.

5. Santander Consumer USA Inc. dba Chrysler Capital does not have, and has not been offered adequate protection for its interest in the Collateral, and the Collateral is depreciating by reason of the passage of time and the use of the Collateral.

6. If Santander Consumer USA Inc. dba Chrysler Capital is not permitted to foreclose its interest in the above-described Collateral, it will suffer irreparable injury, loss and damage.

7. In the event Santander Consumer USA Inc. dba Chrysler Capital exercises its rights to repossess and sell or otherwise liquidate the Collateral pursuant to an Order for Relief from Stay, Santander Consumer USA Inc. dba Chrysler Capital requests the right to file an amended Proof of Claim for any deficiency balance remaining and that such balance be treated and paid as an unsecured claim under the existing Confirmed Plan, if any.

8. Debtors purchased the Collateral on April 18, 2013 within 910 days from filing the instant case. In the event the Collateral is sold for less than the amount owed, Santander Consumer USA Inc. dba Chrysler Capital's unsecured claim, if any, should be paid through Debtors' Chapter 13 Plan.

WHEREFORE, Santander Consumer USA Inc. dba Chrysler Capital prays that, upon consideration of this Motion:

(1) The Automatic Stay of 11 U.S.C. §362 be modified to permit Santander Consumer USA Inc. dba Chrysler Capital to take possession of and to foreclose its interest in the Collateral described above;

(2) In the event Santander Consumer USA Inc. dba Chrysler Capital exercises its rights to repossess and sell or otherwise liquidate the Collateral pursuant to an Order for Relief

from Stay, Santander Consumer USA Inc. dba Chrysler Capital requests the right to file an amended Proof of Claim for any deficiency balance remaining and that such balance be treated and paid as an unsecured claim under the existing Confirmed Plan;

(3) Upon termination of the automatic stay, Debtors shall surrender the Collateral to Santander Consumer USA Inc. dba Chrysler Capital; and

(4) Santander Consumer USA Inc. dba Chrysler Capital be granted such other relief to which it may be entitled.

DATED March 18, 2014.

Respectfully submitted,

BEASLEY, HIGHTOWER & HARRIS, P.C.  
1601 Elm Street, Suite 4350  
Dallas, TX 75201  
(214) 220-4700 (telephone)  
(214) 220-4753 (telefax)

By: /s/ Patrick M. Lynch  
Patrick M. Lynch  
State Bar Number 24065655  
Email: [plynch@bhhlaw.com](mailto:plynch@bhhlaw.com)

ATTORNEYS FOR MOVANT,  
SANTANDER CONSUMER USA INC. DBA  
CHRYSLER CAPITAL

CERTIFICATE OF SERVICE

A true and correct copy of the Motion for Relief from the Automatic Stay was served upon the parties listed below by First Class Mail, postage prepaid, or by electronic filing notification, on March 18, 2014.

U.S. Trustee  
1100 Commerce Street, Room 976  
Dallas, TX 75242

Monte J. White, Esq.  
1106 Brook Avenue  
Wichita Falls, TX 76301

Clayton Warren Graham  
1305 Florea Street  
Graham, TX 76450

Vicki Lynn Graham  
1305 Florea Street  
Graham, TX 76450

Walter 12,13 Ocheskey, Chapter 13 Trustee  
6308 Iola Avenue  
Lubbock, TX 79424

Joe M. Lozano, Jr., Esq.  
Buckley Madole, P.C.  
9441 LBJ Freeway, Suite 350  
Dallas, TX 75243  
Counsel for Wells Fargo Bank, N.A.

/s/ Patrick M. Lynch  
Patrick M. Lynch

CERTIFICATE OF CONFERENCE

I hereby certify that prior to filing the foregoing Motion:

XX My office made a good faith effort to negotiate a settlement of the dispute with Debtors' Counsel; or

\_\_\_\_\_ Debtors' Counsel failed to respond to my office's initial communication by the same time on the second business day after such communication. My office made at least one attempt to contact Debtors' counsel by phone.

Therefore, this Motion is presented to the Court for determination.

/s/ Patrick M. Lynch  
Patrick M. Lynch